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RESEARCH STUDY

BUREAU OF INTELLIGENCE AND RESEARCH

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STRAIGHT BASELINES: CUBAN SOUTHERN COAST

Increased Soviet naval activity in Cuban waters has focused attention on the extent of Cuban territorial sea claims. This study is concerned with Cuban territorial sea claims along the southern coast and the effect of such claims on passage to and from the Bahia de Cienfuegos.

ABSTRACT

Cuba has issued two decrees, in 1942 and 1955, affecting its territorial sea claims.¹ To the best of our knowledge, no new decrees have superseded the aforementioned citations. The decrees, while not precise, apparently established straight baselines around certain extents of the islands. The decrees did not identify the straight baselines and therefore subjective interpretation of the language of the decrees is required. However, some elaboration was provided in a special study on Cuban territorial waters done in 1951 and presented to the U.S. Naval Attache in Havana in 1956.²

In essence, the straight baselines, in conjunction with the enveloping arcs of the territorial seas of the various rocks and

1. The two decrees are appended to the end of the study.
2. The special study was done by the Cuban Navy in 1951 for the Cuban State Department.

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cays, effectively enclose a large expanse of water which the Cubans consider to be internal or historic waters. These straight base-lines and enveloping arcs restrict passage within 38 nautical miles of Bahia de Cienfuegos.

Knowledge available in the Department does not indicate that the United States Government has not officially protested the Cuban decrees relative to the territorial sea.

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No. 7 of 27 January 1942

Article 36. For the purposes of this law, the jurisdictional waters (the territorial sea) shall extend to a distance of three nautical miles from the coasts of the Republic, to be reckoned from the low-water mark on the keys or adjacent islands farthest from the mainland, and running parallel to the contour of the national territory and its keys and islands. The maritime customs zone shall extend to a distance of twelve nautical miles from the coast from the high-water mark, that is to say the distance of four leagues referred to in article 9 of the Customs Ordinances now in force. All places intended to serve for naval purposes shall be regarded as naval bases; they shall include dockyards, arsenals, stores, naval academies, forts, buildings and any area the boundaries of which have previously been fixed by the President of the Republic and in which naval forces are or are to be encamped. During campaigns or manoeuvres, the following shall also be regarded as naval bases: on land, the area of the polygonal zone bounded by the straight lines connecting the extreme limits of the advanced posts; and at sea, when more than two vessels are engaged, the area of the polygonal zone bounded by the straight lines connecting the extreme limits of the waters immediately surrounding the vessels, such limits to be determined by the officer acting as commanding officer in charge of the manoeuvres in question.

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Legislative Decree No. 1948 of 25 January 1955
Relating to the Territorial Sea

Article 1. The waters situated between the coast of the Island and the adjacent keys are hereby declared internal waters, in so far as neither the distance between the said coast and the keys nor the distance between one key and another exceeds ten miles.

Article 2. The State is hereby empowered to take whatever legislative administrative or technical action is necessary for the protection and conservation of the maritime resources in the zones of the high seas contiguous to the territorial sea of Cuba.

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The crucial problem is to identify the baseline from which the three-mile Cuban territorial sea was measured. The problem is not so much that of identifying the "keys or adjacent islands farthest from the mainland;" as envisaged in the Cuban Organic Law of 1942, but rather of constructing straight baselines between the keys and islands.

The decrees of 1942 and 1955 did not promulgate straight baselines, but their existence was inferred. Straight baselines are required to delimit a territorial sea as generally specified by the laws.

The Cuban Navy report did delimit baselines that closed off areas as Cuban historic or internal waters. The decrees establishing these areas of historic or internal waters are not available but the Cuban Navy report was quite precise in identifying the aforementioned water areas.

The Cuban Navy report was completed in 1951 which was prior to the promulgation of the 1955 decree which placed limits on the delimitation of straight baselines. The 1955 decree stated that baselines could not exceed 10 nautical miles in length. It is obvious that the 1951 report of the Cuban Navy did not incorporate this restriction into its analysis.

The lack of consideration of the 10 nautical miles restriction could be justified by proclaiming areas as historic waters. Customary international law provides evidence whereby many areas are considered as historic waters through the implementation of rather liberal acts of delimitation, e.g., shutting of areas which could not be closed by relying upon rationale evidenced in customary international law.

There are 10 basepoints along the southern coast between which straight baselines are or may be drawn. The Cuban Navy report identified four of the points precisely, while alluding to the remaining six points.

The five-straight-baseline segments plus the enveloping arcs of the three-mile territorial seas of the offshore rocks and cays effectively enclosed vast sea areas as Cuban internal waters. As a result, the area from Cabo Cruz to the extreme western margins of the Golfo de Batabano are considered by the Cubans as internal or historic waters. ¹

1. "... the special case of the islands de los Canarios, on the south coast of Cuba, which extend from the Jardines Bank to Cape Frances and comprise an area of over one hundred miles. Within this zone are included some islands, but mainly banks upon which the depth of water is not sufficient to allow of navigation. In this case there can be little doubt that the islands are to be treated as forming an archipelago and that the territorial waters of Cuba 'run along the exterior edge of the banks'. "Colombos, C. John. The International Law of the Sea, 6th edition. New York: David McKay, 1967. p. 121."

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could be made into the contiguous zone to within 3 n.m. of the coast of the main island of Cuba.

Point 1 stems from the Cuban Navy report which stated: "...at Cabo Cruz, starting from most salient point of the top of the rocks." Contradicting this statement was a remark that Point 1 was the Cabo Cruz lighthouse. However, the discrepancy is minor and for practical purposes the offshore rocks very near the cape will be identified as Point 1.

The distance between Points 1 and 2 is 52.50 nautical miles. Point 2 is the Cabeza del Este lighthouse. The Cuban Navy report stated that the straight baseline 1-2 is "... the limit of the waters that we consider as internal and historical which make up the Golfo de Guacanayabo."

The length of the closing line for the Golfo de Guacanayabo initially appears to be extreme. However, the Golfo de Guacanayabo is comprised of many rocks and shoals and the territorial seas of these features would only result in a small areal decrease from the area claimed as a result of the straight baseline. That is, the enveloping arcs of the low-water elevations of the Gulf would form an arc 6 to 13 nautical miles to the northeast of the existing baseline.

The area between Points 2 and 3 is effectively closed by the territorial seas of the rocks and keys of the Jardines de la Reina. The Cubans, in effect, view the enveloping arcs of these islands as forming a straight baseline.

Taken singularly, the Jardines de la Reina cannot be considered to form straight baselines; but in so considering them, little change results in the Cuban territorial sea claim as the region between the Jardines and the mainland contains a large number of low-water elevations that effectively delimit the area as Cuban territorial waters.

The Cuban Navy report stated that Point 3 is "... at Cayo Breton, starting from the most outstanding rocks to the southwest thereof." The rock in question is 2.50 nautical miles to the southwest of Cayo Breton.

The baseline segment 3-4 terminates at Cayo Trabuco and has a length of 95.00 nautical miles. The Cuban Navy report stated "... starting from

I. Examples of other extensive closing lines are :

Mauritania (Cap Blanc - Cap Timiris) - 89 n.m.

Burma (Gulf of Martaban) - 222.3 n.m.

Madagascar (Pointe Maromanjo - Cap Saint-Andre) - 123.1 n.m.

(Pointe de Vohemar - Nosy Akas) 117.7 n.m.

Venezuela (Delta of the Orinoco River). 98.9 n.m.

For elaboration on these straight baselines see: Dept. of State, Office of the Geographer, International Boundary Study: Series A., Limits in the Seas, Nos. 8, 14, 15, 21, respectively.

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